



House of Representatives

File No. 1017

General Assembly

January Session, 2009

(Reprint of File No. 627)

Substitute House Bill No. 5824
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 30, 2009

AN ACT CONCERNING THE PAYMENT OF PERSONAL SERVICE AND PURCHASE OF SERVICE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding any
2 provision of the general statutes, within available appropriations, for
3 each personal service contract and purchase of service contract entered
4 into by the state, including, but not limited to, personal service
5 contracts and purchase of service contracts for the provision of health
6 and human services: (1) Once any such contract is issued by the state
7 contracting agency, signed by the contractor and returned to such state
8 contracting agency, such contract shall be rejected or approved by such
9 state contracting agency and, if approved, submitted to the Attorney
10 General for review, not later than thirty days after such contract is
11 received by the state contracting agency; (2) the Attorney General shall
12 approve or reject such contract not later than twenty-one days after
13 receipt of such contract from the state contracting agency for review;
14 and (3) not later than forty-five days after receipt by the state
15 contracting agency of a written request for payment from the

16 contractor or the expiration of a contractual deadline for payment, the
17 state contracting agency shall either submit such payment to the
18 contractor or notify the contractor of its refusal to pay, in whole or in
19 part, any such amount, and the basis for such refusal.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect
Various	GF - See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill requires that state personal service and purchase of service contracts for the provision of health and human services be approved by the contracting agency within 30 days from the return of the contract from the provider.

The effect of this provision is not clear. During the contracting process, a contract may be returned to an agency numerous times prior to final approval. Contract language must also be reviewed by the Attorney General prior to final approval. Should this requirement be read to pertain to only the final, fully reviewed contract, no fiscal impact is anticipated. However, should this requirement be read to pertain to the version of a contract that a provider agrees to in principle, but which still must be reviewed by the Attorney General, a significant cost may result¹. Both the contracting agency and the Office

¹ The requirement that the state personal service and purchase of service contracts contain provisions setting deadlines for the state contracting agency to reject or award the contract and pay for the services be done within available appropriations will likely result in one of four outcomes: (1) the contracting agency will proceed with the required contract provisions, and may require a deficiency appropriation during FY 10; (2) the contracting agency will delay the implementation of the contract provision pending the approval of additional appropriations to meet this requirement in future fiscal years; (3) the contracting agency will shift staff resources from other agency priorities, thereby impacting existing agency responsibilities and

of the Attorney General may require additional staff to review, make necessary adjustments, and approve such contracts in the required 30 day time frame.

The bill also requires the state contracting agency to pay the amounts due under the contract no later than 45 days after the agency receives a written request for payment from the contractor. This provision should have no fiscal impact during normal operating times; however, it is not clear whether this requirement would restrict the executive branch's ability to implement fiscal rescissions during times of budgetary shortfall.

House Amendment "A" strikes the original bill and has the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

duties; or (4) the contracting agency will not be able to implement the contract provisions.

OLR Bill Analysis**sHB 5824 (as amended by House "A")******AN ACT CONCERNING THE PAYMENT OF PERSONAL SERVICE
AND PURCHASE OF SERVICE CONTRACTS.*****SUMMARY:**

This bill sets deadlines by which (1) state agencies must submit state personal service and purchase of service contracts, including those with health and human services providers, to the attorney general for review; (2) the attorney general must approve or reject them; and (3) state agencies must pay such contractors or explain why they refuse to do so.

*House Amendment "A" (1) eliminates a requirement for mandatory provisions in these contracts, (2) sets a firm deadline by which state contracting agencies and the attorney general must approve the contracts, and (3) eliminates a requirement that the agency pay the contract price regardless of the quality or timeliness of services provided.

EFFECTIVE DATE: Upon passage

PERSONAL SERVICE AND PURCHASE OF SERVICE CONTRACTS

By law, a state contract is not considered finalized until after the contractor signs and returns it to the issuing state agency and the agency and the attorney general sign-off and approve it. Concerning personal service and purchase of service contracts, the bill requires (1) state contracting agencies to submit contracts they approve to the attorney general within 30 days of receiving them from the contractor and (2) the attorney general to approve or reject each one within 21 days of receiving it from the agency.

The bill exempts state agency personal service and purchase of service contracts from the prompt payment laws. But like the prompt payment laws, it requires state contracting agencies to submit payments no later than 45 days after receiving a written request for payment or the expiration of the contractual deadline for payment. Since the bill does not specify that contracting agencies make the payment by the earlier or later of these two dates, agencies appear to have some discretion about when to make payment.

If an agency refuses to pay a contractor, in whole or in part, it must notify the contractor of its refusal and the basis for doing so. The bill does not impose a penalty for failure to make timely payment.

BACKGROUND

Prompt Payment Laws

Under the prompt payment laws, state agencies (1) must pay for services provided on the date specified in the contract or, if no date is specified, within 45 days of a properly completed claim or receipt of services, whichever is later; (2) do not have to promptly pay claims that are the subject of a good faith dispute that is timely noticed; and (3) must pay interest on payments that are not timely (CGS §§ 4a-71 to 4a-73).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (03/27/2009)